



**SCOTTSDALE BOARD OF ADJUSTMENT**  
**3939 N. Drinkwater Boulevard**  
**Kiva at City Hall**  
**Scottsdale, AZ**  
**August 4, 2004**  
**6:00 PM**  
**MINUTES APPROVED 10-06-04**

**PRESENT:** James Vail, Chair  
Terry Kuhstoss, Vice Chair  
Jennifer Goralski, Board Member  
Ernest Jones, Board Member  
Carol Perica, Board Member  
Neal Waldman, Board Member  
Howard Myers, Board Member

**STAFF:** Donna Bronski  
Kira Wauwie  
Tim Curtis  
Bill Verschuren

**CALL TO ORDER**

The regular meeting of the Scottsdale Board of Adjustment was called to order by Chair Vail at 6:00 p.m.

**ROLL CALL**

A formal roll call confirmed members present as stated above.

**APPROVAL OF MINUTES**

1. July 7, 2004

Vice Chair Kuhstoss moved to approve the minutes as presented. Commissioner Waldman seconded the motion. The minutes were approved as amended by a vote of seven (7) to zero (0).

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### **REGULAR AGENDA**

**CHAIR VAIL** explained the function of the Board of Adjustment and the constraints placed upon the Board by State law. He also explained the format for applicant testimony and public comment.

2. 9-BA-2004 Hayden Lofts, a variance from Article V. Section 5.1004.E1 regarding setback requirements, Article V. Section 5.1004C.2 regarding building height requirements and from Article X. Section 10.602A.2 regarding the required landscape buffer on a parcel located at 2322 N. Hayden Rd. with Multi-Family Residential (R-5) zoning.

**MR. BILL VERSCHUREN** presented the case per the staff. He responded to questions from the Board Members. Three e-mails from the public in opposition were noted.

**DAVID KLINE**, Hayden Lofts Investors, LLC, 43051 Sterling Heights, Michigan, representing the applicant, addressed the Board. He explained that the site is unique, with none other like it in Scottsdale. He noted that the zoning ordinance is designed for larger parcels, relative to the setbacks. He referred to the 100-foot width of the subject parcel and the fact that the 15-foot setback requirement would limit the buildable square footage by 40 percent. Mr. Kline noted the vacant baseball field, the church parking lot, and the utility substation surrounding the subject, thus minimizing the visual impact of the development to the neighboring areas. He pointed out the 50 feet of buffering provided to the west of the site and the Continental Villa area. He stated that the bottom level of the property would be a parking garage. In reply to a question by Commissioner Perica, Mr. Kline stated that without all three of the variances, development of the project would not be cost effective.

**MR. KLINE** clarified that the height of the building would actually be 32 feet, with several design elements accounting for the additional four feet.

**BOARD MEMBER GORALSKI** asked if a feasibility study had been done. Mr. Kline replied that the market was strong in terms of his analysis and that the numbers reflected market demand in the range of \$200,000.

**CHAIR VAIL** noted that no comment cards had been received from members of the public. He requested Board Member discussion of this item.

**BOARD MEMBER GORALSKI** stated that based upon satisfaction of the four criteria, she would support the request. She added that she found the site to be unusual in terms of location and ingress and egress.

**CHAIR VAIL** agreed that the four criteria had been easily met. He went on to comment that ingress and egress had been a concern, but commented that the problem would be mitigated by the 30-foot wide ingress and egress area. Chair Vail also noted that the property has been vacant for many years and fits into the City's desire to enhance this portion of south Scottsdale.

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**VICE CHAIR KUHSTOSS** stated that she felt the four criteria had not been satisfied. She viewed the project as an island, which would be conspicuous in the area. She went on to observe that granting the variance would give the applicant privileges that no one else had. She supported the e-mail opposition from the neighbors, and stated that she would vote against the variance.

**BOARD MEMBER JONES** characterized the project as a positive for the city and viewed the four criteria as having been met.

**BOARD MEMBER PERICA** agreed that the four criteria had been met. She expressed concern as to the height of the town homes, but stated that she would support the variance request.

**BOARD MEMBER MYERS** also agreed that the four criteria had been met. He noted concern regarding the west side of the project. He asked if the board could require an additional setback on the west. Mr. Curtis replied that requiring additional setbacks was not within the purview of the Board. Ms. Bronski concurred.

**BOARD MEMBER MYERS** explained that his concern was to keep a reasonable buffer between the west side and the residents on that side. He stated support for the variance, but added that he would like to keep the setback to the west.

**BOARD MEMBER WALDMAN** affirmed that the four criteria had been met. He concurred with Board Member Myers' comments regarding the setback on the west side of the project as an additional buffer.

In light of the concerns expressed by Board Members Myers and Waldman, Chair Vail asked for a separate vote on the three sections of the variance request. Ms. Bronski agreed and added that the DR Board would review the issue of a landscape buffer on the west side.

**Board Member Perica moved to approve the variance regarding the setback requirement as stated in Article V. Section 5.1004.E1. Board Member Jones seconded the motion. The motion passed by a vote of six (6) to one (1), with Vice Chair Kuhstoss voting "Nay."**

**Board Member Goralski moved to approve the variance request relating to building height as stated in Article V. Section 5.1004C.2. Board Member Perica seconded the motion.**

Vice Chair Kuhstoss asked to have the E-mail comments from residents read into the record.

Robert Intemann, 7901 E. Wilshire Dr. Scottsdale

Hi Frances, I am sending this letter, asking the Board to not grant this zoning variance, the building is just too high, and we ask that the setbacks conform to current zoning. I live at 7901 E. Wilshire Dr. me and

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the other property owners wish that this area remain a single family, single story area. Please do not set a PRECEDENT, by granting this. Thank you, Robert Intemann.

Marcy Kerlin  
7834 E Harvard  
Scottsdale, AZ

I am writing in regard to 9-BA-2004 – HAYDEN LOFTS. I am opposed to giving the height variance. As I live within 100' of the proposed project, I feel that such a tall building is intrusive and possibly invasive as they may have a view into my back yard. I just feel that having such a tall structure in such proximity will change the "feel" of our community (Continental Villas). Thank you for listening.

Joanne Hamilton-Selway  
7830 E. Harvard Street  
Scottsdale, AZ

This is in reference to the Hayden Lofts (9 BA-2004). I live in Continental Villas, the complex next to the proposed site; I am opposed to allowing the variances requested by the builder for this project. With the height restriction, the building would loom over the townhouses on the end, in fact, giving them a clear view into our backyards and eliminating our privacy. I understand when variances are permitted but Scottsdale has a height restriction for a reason; to prevent a tall, narrow, odd looking building that fills the space so completely that it looks like it was shoved into a space too small for it. With a 60% reduction in the setback and NO landscape buffer, this building will be crammed into a space it is not meant to be in. This is wrong. This is not what Scottsdale wants to look like. Please listen to the people who will be most affected by this building. Please do not allow this project to be built.

Sincerely  
Joann Hamilton-Selway  
7830 E. Harvard St.

**Chair Vail called for the vote. The motion passed by a vote of six (6) to one (1), with Vice Chair Kuhstoss voting "Nay."**

**Board Member Goralski moved to approve the section of the variance relating to landscape buffer as stated in Article X. Section 10.602A.2. Board Member Perica seconded the motion.**

**Vice Chair Kuhstoss reiterated that a zero landscape buffer is contrary to what Scottsdale stands for. Chair Vail stated that in most cases, he would agree, but due to the unique nature of the lot, it would be impossible for the project to proceed without the variances.**

**Chair Vail called for the vote. The motion passed by a vote of six (6) to one**

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**(1), with Vice Chair Kuhstoss voting “Nay.”**

3. 11-BA-2004 Matera Villas, a variance from Article X. Section 10.602.A.2 regarding the required landscape buffer on a parcel located at 7323 E Bellevue St. with Multi-Family Residential (r-5) zoning.

**MS. KIRA WAUWIE** presented the case per the staff packet,

**ELIZABETH ROSS**, Treviso LLC, 9839 E. Rosemary Lane, Scottsdale. representing the applicant, addressed the Board. Ms. Ross provided a brief summary of the applicant's building experience. She reviewed the four criteria. With respect to the first criteria, Ms. Ross explained that the lot was platted in 1960, and allowed for parking along the alley with no landscape buffer. She pointed out that some landscaping had been provided along the alley, although not the full 15 feet. Ms. Ross noted that parking along the alley was necessary as a result of the size and manner in which the platted lots were developed. Ms. Ross stated that none of the existing units have ingress or egress along the street, and that it is the applicant's contention that the ordinance does not take into consideration a parcel of land that is platted with reliance on alley parking and ingress and egress. In conclusion Ms. Ross proposed that the neighbors would benefit from the development of this parcel and that consistency would be maintained as all of the multi-family sites along Bellevue use alley parking.

**CHAIR VAIL** noted that there were no comment cards, and requested Board Member discussion of this request.

**VICE CHAIR KUHSTOSS** stated that she felt the four criteria had been met, and commented that the project would be an asset to south Scottsdale.

**BOARD MEMBER PERICA** concurred, stated support for the variance request and observed that the project was in continuity with neighboring projects in the area.

**BOARD MEMBER MYERS** stated his support of the variance

**BOARD MEMBER JONES** also stated support for the variance request.

**BOARD MEMBER WALDMAN** noted that the project was in continuity with the rest of the projects and stated his support for the variance request.

**BOARD MEMBER GORALSKI** applauded the project, noted that all four criteria had been met, and that the project would be an asset to south Scottsdale.

**CHAIR VAIL** expressed comfort that all four criteria had been met. He pointed out the results of private investment in the revitalization of south Scottsdale and commended the applicant in that regard.

**Vice Chair Kuhstoss moved to approve the variance request as stated in 11-BA-2004. Board Member Myers seconded the motion. The motion**

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**passed unanimously by a vote of seven (7) to zero (0).**

**ADJOURNMENT**

With no further business to discuss, the regular meeting of the Scottsdale Board of Adjustment was adjourned at 6:53 PM.

Respectfully submitted,

"For the Record" Court Reporters

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